

12910

No. _____

Supreme Court of Illinois

Shufeldt, Imp.

vs.

Seymore et al

71641  7

SUPREME COURT.

SUPREME COURT, ON APPEAL FROM COOK COUNTY
COURT OF COMMON PLEAS.

WILLIAM T. SHUFELDT, <i>Impleaded &c.,</i> <i>Appellant,</i> <i>vs.</i> JOEL SEYMORE and WALTER N. WOOD- RUFF, <i>Appellees.</i>	}	<i>Appellant's Points.</i>
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I.—The partnership of the defendants below was put in issue by the Appellant pleading *non assumpsit*, and annexing thereto his affidavit denying the execution of the note.

Sec. 8, Chap. 40, Rev. Stat.

Warren vs. Changers 12 Ill's. 124.

Davis vs. Scarritt 17 Ill's. 203-4.

II.—To have entitled the plaintiff below to recover, they should have proved that the firm of W. T. Shufeldt & Co. was composed of the defendants below.

Davis vs. Scarritt 17, Ill's. 204.

Whiteside vs. Lee 1, Scam. 550.

Joseph vs. Fisher 3, Scam. 137.

III.—The fact that the signature to the note was in the hand writing of the Appellant, did not relieve the plaintiffs below from the necessity of showing that the firm of W. T. Shufeldt & Co. was composed of the defendants below, nor did it preclude the Appellant from showing that Littell, one of the defendants below, never was a member of said firm.

Davis vs. Scarrit, 17, Ill's. 204.

IV.—The admissions made by Littell by not pleading, did not bind the appellant Shufeldt.

Davis vs. Scarritt 17, Ill's. 204.

V.—The signature to the note being in the Appellant's hand writing, only showed that he was a member of the firm of W. T. Shufeldt & Co.

Shufeldt
vs
Seymour Et al
Appts Point

Filed Apr 28, 1838

C. Belmont
Clerk

Supreme Court of Illinois
William J. Sheffield *in p^{te}*
Appellant

vs
Jarl Seymour *et al*
Appellus -

To the five points of argument
submitted to us by the Counsel
for the Appellant, we reply to
each respectively in its order -

1st To the first, that the plea of non-
assumpsit, verified by affidavit
put in issue the question of
partnership so as to require
proof of the fact - only as to
such defendant who had so
pleaded and verified his plea -
and as to such defendant -
(the appellant) it was proved -
Stevenson *et al* vs. Farnsworth *et al* 2 Gil. 715 -
Davis vs. Scarro - 17 Ill. 202 -

2^d To the second, that to entitle the
Plaintiffs below to recover, it was
necessary for them to prove the execution

of the instrument and the partnership only as to such of the defendants below who by pleading and affidavit had denied those facts - each one for himself - for it is not necessary to prove the execution of an instrument or the existence of a partnership as to any defendant who does not deny the same under oath -

vide same Cases - 24th. 7/58/7 & 202

3^d To the third - that proving that one of the firm of H. J. Sheffield & Co. executed the note offered in evidence did relieve the Plaintiffs below, from the necessity of proving that said firm was composed of any of the defendants below - other than those who had denied the fact under oath; - and the appellant was precluded from showing that the Co-defendant Littell never was a member of said firm - not by proof of said appellants signature - but by the fact that the defendant Littell had not himself pleaded and sworn that he was not a member of such firm - as each defendant

must plead for himself and verify
by affidavit in order to impose upon
the Plaintiffs the necessity of proving
the execution of the instrument or
the Copartnership as to such defendant—

Vide same Cases 2 Gil 715 & 17 Ill 202—

4th To the fourth— that while the
admissions of Little by not pleading
may not bind appellant— that
fact shows nothing in this case—

5th To the fifth— that while the proof as
to appellant only showed that
he was a member of said firm—
— by the pleadings in the case proof
of such fact was only required as
to him— the Plaintiffs by the Statute
were relieved of the necessity of
the proof as to Little—

Vide same Cases— 2 Gil 715 and
— 17 Ills 202—

(over)

We do not consider it necessary to argue any of the points raised in this case by the Counsel for the Appellant - as we think that the two questions as to proof of signature and proof of partnership have both been well and ably discussed and settled by this Court in the two cases above cited - 2 Hil. 715 and 17 Ill 202 - the latter of which is relied upon by Counsel for the Appellant as in supposed conflict with the former, - but which we submit affirms the rule and decision of the case in Hilman -

The case in 2^d Hilman - was thoroughly argued by able Counsel and the statute received at the hands of the Court an able opposition in terms that cannot be misunderstood and from which this Court cannot now be asked to recede -

Upon the emphatic language of that case we rely and think no further argument called for -

Hilman & Clark
for Appelles -

Supreme Court

Wm. J. Shufeldt
~~213~~ 46 Appellant
Jas. Seymour
appellus

Appellus Brief

Filed April 22, 1858
Leland
Clk.

Helm & Clark

Supreme Court.

William T. Shufeldt &
Appellant.

vs.

Joel Seymour et al
Appellees.

Argument of the Appellant in
Reply to the appellees.

To the first and second points made by the Appellees the Appellant says. That his plea of non assump- sit verified by his Affidavit. put in issue the question of partnership so far as to oblige the plaintiffs ^{below} as against the Appellant. to prove that the de- fendants composed the firm of W. T. Shufeldt & Co. And to permit the ap- pellant to introduce evidence disprov- ing, or tending to disprove the partner- ship of the defendants below. We do not claim that the other defendant below could have called witnesses. but though he could not. yet if the evidence of the appellant disproved the partnership of the

defendants below, no judgment could have been entered.

By reference to the Abstract it will be seen that the Appellees concede away by their first and second points - the position taken on the trial - viz "that the pleadings did not raise the question of partnership of the defendants below":

To the third point - The fact that the defendant Littell had not himself pleaded and sworn that he was not a member of the firm of H. T. Shufeldt & Co. did not preclude the appellant Shufeldt from shewing that Littell was not a member of such firm - nor relieve the plaintiffs below from the necessity of proving that the defendants below composed such firm - because the admission implied against Littell by his not pleading, was and can only be implied against him - Littell, and not against the appellant.

By the Appellees 4th point, they admit that the admissions implied against Littell by not pleading - do not bind the appellant - then it follows clearly that the partnership of the defendants below should have been proved -

below should have been proved -
at least that the appellant should
have been permitted to disprove the part-
nership.

To the fifth point. The proof as
to the appellant only showed that
he had signed the Note, and that he
was a member of the firm of W. T. Shu-
feldt & Co. It did not show Dittell
to be a member thereof, without proof
of which if the question of partnership
was in issue under the pleadings the
plaintiffs below should not have been
permitted to recover.

In regard to the case of
Stevenson et al vs Farnsworth et
al - 2 Gil. 715. We have this to say. That
it appears from the report of the case -
"that the signature to the Note was in the
"hand writing of the party verifying; and
"that he had admitted that Charles
"Stevenson (the party not verifying), ^{and himself} were
"partners under the firm of C. Steven-
son & Co." This was sufficient to make

out a prima facie case is the defendant, and to put Jno D. Stevenson to proof as to who composed the firm of C. Stevenson & Co. It now where appears that the evidence admitted or excluded as to the question whether Charles Stevenson & Co ~~is~~ was offered in behalf of the defendant verifying - while it does appear that the plaintiffs offered proof -

Now if the testimony excluded was offered generally in behalf of the defendant, or in behalf of C. Stevenson the defendant not verifying, the Court very properly excluded it. but if offered in behalf of the party verifying, as in the case at bar. then we submit that the decision is erroneous.

We don't understand the Court by saying. "that
"it was only incumbent on the plaintiffs
"to sustain their action against both.
"to show that the party verifying was a
"member of the firm of C. Stevenson & Co
"and that the Note was executed in behalf
"of the firm" - - to say that the party verifying could not have disproved the making of the admissions proven by the plaintiffs, or that he could not

in any way have established the fact that Charles Stevenson was not a member of the firm. Would not evidence of Charles Stevenson not being a partner, ^{have} been proper as tending to disprove the admission. It does not appear in the case what the grounds of objection to the testimony excluded were.

The Court certainly did not mean to say, and in our opinion have not said. That "Jno D Stevenson was not at liberty to offer evidence tending to disprove the partnership of the defendants.

Again the Court after stating the effect of one of the defendants not pleading - say "this allegation the plaintiffs were not bound to prove, nor was he" at liberty to disprove. By the pronoun he, we understand the Court to refer to the party not verifying - and not to the party verifying. While the Appellees and the Court below seem to have understood the converse to be stated.

It no where appears that Geo D. Stevenson - (the party verifying) offered in his own behalf any evidence as to the question of the partnership of the defendants. While in the case at bar the exclusion of testimony offered by the appellant in his own behalf to disprove the partnership of the defendants below is one of the errors relied on to reverse the judgment appealed from.

For the above reasons we submit that the judgment in the case at bar should be reversed, and a new trial ordered.

Hopkins & Guthrie
Attys for App't

223 46-11

Supreme Court.

Wm J. Sheffield

vs

Appellant.

vs.

Joel. Seymour et al

Appellees.

Argument of
Appellant in reply
to points of Appellees.

Hopkins & Guthrie

Appls Attys

Chicago
Filed April 22, 1858

L. Leland
CLK

Supreme Court of the State of Illinois.
of the April Term 1858.

On Appeal from the
Cook County Court of Common Pleas.

William T. Shufeldt Impleaded
with William L. Littell.

Appellant.

^{vs}
Joel Seymour &
Walter N. Woodruff

Appellees.

And now comes the said Appellant William T. Shufeldt by Hopkins & Guthrie his Attorneys and says that there is error in the above cause and in the record of the proceedings thereof and for errors in the same assigns the following to wit:-

1st That the Court erred in deciding that the question of the partnership of the Appellant and the said Littell (defendants below) was not

put in issue by the pleadings in this action.

2nd That the Court erred in deciding it to be unnecessary for the plaintiffs below to prove the partnership of the defendants below

3rd That the Court erred in ~~deciding~~ it to be ~~so~~ refusing to allow the appellant to prove who composed the firm of W. T. Shufeldt & Co at the time of the making of the note on which this action is founded and that the defendant below William S. Littel never was a member of the firm of W. T. Shufeldt & Co -

4th That the Court erred in entering judgment in favor of the plaintiffs below -

5th That the Court erred in refusing the Motion for a new trial.

And thus the said Appellant

is ready to verify
Hopkins & Guthrie
Attys for
Appellants -

And now Cometh the said Appellee
Joh. Symon & Walter A. Woodruff
by Helm & Clark their Attorneys
and say that there is no error
in the judgment in the above cause
or in the Record of the proceedings
thereof - and thus they are ready
to verify &c

Helm & Clark

Supreme Court.

William T. Shufelat
Impleaded &
Appellant.

vs.

Joel Seymour
& Walter N. Woodruff
Appellee

Appellant's Assign-
ment of Errors.

1-

United States of America
State of Illinois } Ss.
County of Cook }

Pleas before the Honorable
John W. Wilson, Judge of the Cook County
Court of Common Pleas, within and for the
County of Cook and State of Illinois, at a
regular term of said Cook County Court of
Common Pleas, begun and holden at the
Court House in the City of Chicago in said
County on the first Monday, being the first day
of February in the year of our Lord, One
Thousand Eight Hundred and fifty Eight and
of the Independence of the United States the
Eighty Second.

Present, The Honorable John W. Wilson Judge
Charles Haven Prosecuting Atty.
John L. Wilson Sheriff
Attest Walter Kimball, Clerk

Be it Remembered, That heretofore, to wit, on the
Twentyfirst day of December in the year of Our
Lord One Thousand Eight Hundred and fifty
seven, Joel Seymour and Walter N. Woodruff
by Helen Clark their Attorneys filed in the office
of the Clerk of said Cook County Court of Com-
mon Pleas, their Preceipe for Summons, which
said Preceipe is as follows, to wit,

Cook County Court of Common Pleas.
Of the January Term A.D. 1858

Joel Seymour	}	Asst. Dist. \$200. Cook Co.
Walter W. Woodruff		
William T. Shufeldt		
William S. Littell		

Will the Clerk please issue
Summons in above cause and oblige
Helm Clark
Plffs Attys.

And afterwards to wit. on the same day and year
last aforesaid. there issued out of the office of the Clerk
of said Court the Peoples writ of Summons,
which said writ. and the Sheriffs return thereon
Endorsed are in the words and figures following
to wit.

State of Illinois }
County of Cook } ss.

The People of the State of Illinois
To the Sheriff of said County, Greeting.

We command you that you summon
William T. Shufeldt. and William S. Littell, if
they shall be found in your County. personally
to be and appear before the Cook County Court
of Common Pleas of said County. on the first
day of the next term thereof. to be holden at the
Court House in the City of Chicago in said County
on the first Monday of January. next to
answer unto. Joel Seymour & Walter W. Woodruff

3.

in a plea of Trespass on the case on promises, to the damage of the said plaintiffs as they say in the sum of Two Hundred Dollars.

And have you then and there this writ with an endorsement thereon in what manner you shall have executed the same.

Witness Walter Kimball Clerk of our said Court and the Seal thereof at the City of Chicago in said County this 21st day of December AD, 1857
Walter Kimball, Clerk

Endorsed.

Served by reading to the within named Wm T. Shufeldt and Wm S. Littell Decr 28th 1857
John L. Wilson Sheriff
By Seth Taylor Deputy.

And afterwards, to wit, on the Twenty fifth day of December in the year last aforesaid, the said plaintiffs by their said Attorneys filed in the office of the Clerk of said Court, their Declaration and Copy of Note, in the words and figures following, to wit.

Cook County Court of Common Pleas.
Of the January Term AD. 1858
State of Illinois
County of Cook SS.

Joel Seymour and Walter A. Woodruff, copartners under the firm name and style of Seymour & Woodruff, plaintiffs in this suit by Helen Clark their Attorneys, come plain of William T. Shufeldt and William S. Littell copartners under the firm name and style

of Wm. J. Shufeldt & Co. Defendants, of a plea of
Trespass on the case on promises,

For that whereas the
said defendants heretofore: to wit. on the Twelfth
day of October in the year of our Lord One
Thousand Eight Hundred and fifty seven, at
Chicago. to wit. at said County of Cook. made
their certain promissory note in writing, bear-
ing date the day and year aforesaid, and then
and there delivered the same to said plaintiffs,
in and by which said note said defendants by
the name style and description of W. J. Shufeldt
& Co. promised to pay to the order of the said plaintiffs
by the name and style of Seymour Woodruff, ten
days after the date of said note, the sum of One
Hundred Dollars and twenty eight cents. for
Value received.

By means whereof and by force of
the Statute in such case made and provided,
the said Defendants became liable to pay said
Plaintiffs, said sum of money mentioned in said
note, and being so liable in consideration,
thereof then and there undertook and promised
to pay the same to the said plaintiffs, according
to the tenor and effect of the said note, to wit. at
the place aforesaid.

And whereas, also, the said
Defendants afterwards, to wit on the Fifth day of
November in the year of Our Lord One Thousand
Eight Hundred and fifty seven, to wit at said
County, became and were indebted unto the plain-
tiffs in a large sum of money, to wit: the sum of
Two Hundred Dollars, for money before that time
lent and advanced to said defendant by said plaintiffs

at said defendants request, and also in the like sum for money before that time paid laid out and expended for said defendants by the said plaintiffs at the like special request of said defendants, and in the like sum for money before that time had and received by said defendants to and for the use of said plaintiffs, and also in the like sum for goods, wares, and merchandise before that time sold and delivered by said plaintiffs to said defendants, at the like special instance and request, and also in the like sum for the labor, care and diligence of said plaintiffs before that time done and performed by said plaintiffs for said defendants and at the like instance and request of said defendants, and also in the like sum then and there found to be due and owing to said plaintiffs, on an account stated between them. And being so indebted said defendants in consideration thereof then and there undertook and promised to pay said plaintiffs said several sums of money above mentioned, when thereunto afterwards requested. And the said plaintiffs aver that the whole of the aforesaid causes of action accrued at the said City of Chicago and County of Cook.

But the said defendants not regarding their said promises and undertakings but contriving so, although often requested so to do, have not paid said plaintiffs either of said sums of money above mentioned or any part thereof, but so to do have hitherto wholly neglected and refused, and still do neglect and refuse, to the damage of said plaintiffs of Two hundred Dollars, and therefore they bring this suit so.

Helm & Clark

Plaintiffs Attorneys

Copy of Instrument and account sued on
 \$100 ²⁸/₁₀₀.

Chicago Oct. 12th 1857

Ten days after date we promise to pay
 to the order of Messrs. Seymour Woodruff One
 Hundred ²⁸/₁₀₀ Dollars. Value received, at office
 Merchants Savings S. & Co.

(Signed) W. T. Shufeldt & Co.

And afterwards. to wit. on the Second day of
 February A.D. One Thousand Eight Hundred
 and fifty Eight the said defendant, William T.
 Shufeldt. by Hopkins & Guthrie his attorneys
 filed in the office of the Clerk of said Court his
 Plea and Affidavit in the words and figures
 following, to wit,

Common Pleas.

William T. Shufeldt
 & William S. Littell
 vs
 Joel Seymour et al

And the said William T.
 Shufeldt, by Hopkins & Guthrie his attorneys comes.
 and defends the wrong and injury whereof. and
 says that he did not undertake and promise in
 manner and form as the said plaintiffs have
 above thereof complained against him, and of
 this he puts himself upon the Country
 Hopkins & Guthrie
 Atty for W. T. Shufeldt.

7
State of Illinois }
County of Cook } ss.

William T. Shufeldt one of the
defendants in the above entitled action, being
duly sworn doth depose and say, that he is
not and was not a partner of the Defendant
William S. Littell at the time of the making of
the promissory note alleged in the declaration
therein to have been made by deponent and said
Littell, and that the defendants in this action
never made, executed, or delivered ^{to the Plaintiff} the said prom-
issory note, that he has read the foregoing plea
and that the same is true to his own knowledge
And that deponent believes he has a good defence
to this action upon the merits, and further
Deponent saith not.

Sworn before me this }
day of February 1858

W. T. Shufeldt

Sworn and subscribed
before me February 2, 1858
Calvin D. Walf. J. P.

And afterwards, to wit, on the Eighth day of February
in the year last aforesaid, said day being one of
the days of the February Term of said Court: the
following among other proceedings, was had in said
Court and entered of record, to wit.

Joel Seymour Walter W. Woodruff

vs
William T. Shufeldt & William S. Littell

} Appearance.

This day come

the said plaintiffs by Helms & Clark their Attorneys and it appearing to the Court, that due personal service of process of summons issued in this cause has been had on William S. Littell one of the above named defendants, and he being three times solemnly called in open Court. Comes not nor any person for him, but herein he makes default, which on motion is ordered to be taken and is here by entered.

And afterwards to wit: on the Twenty eighth day of February in the year last aforesaid said day being also one of the days of said February Term of said Court, the following among other proceedings was had in said Court and entered of Record, to wit,

Joel Seymour Walter W. Woodruff
vs
William T. Shafeldt. William S. Littell } App

This day again come the plaintiffs by their Attorneys aforesaid, and the said defendant William T. Shafeldt by Hopkins & Justice his attorneys also comes, and upon issue being joined, upon agreement of parties had herein the trial of this issue is submitted to the Court, without the intervention of a Jury, and the Court having heard the proofs and allegations submitted and being fully advised now finds the issue for the plaintiffs herein, and assesses their damages against both of said defendants to the sum of One Hundred and two Dollars and twenty eight cents. And thereupon the said defendant William T. Shafeldt submits his motion for a new trial herein.

And afterwards, to wit, on the same day and year last aforesaid, the said William T. Shufeldt by his said attorneys filed in the office of the Clerk of said Court his motion for a new trial, which said motion is as follows, to wit,

Cook County Court of Common Pleas.

Joel Seymour et al }
 vs }
 William T. Shufeldt }
 & another }

And now comes the Defendant William T. Shufeldt by Hopkins & Guthrie his attorneys and moves for a new trial herein on the following grounds.

That the Court erred in deciding that the question of the partnership of the defendants was not put in issue by the pleadings in this action.

That the Court erred in deciding it to be unnecessary for the plaintiff to prove the partnership of the defendants.

That the Court erred in refusing to allow the defendant Shufeldt to prove who composed the firm of William T. Shufeldt & Co. at the time of the making of the note on which this action is founded.

Feb'y 27. 1858.

Hopkins & Guthrie
 Atty's Wm. T. Shufeldt.

And afterwards, to wit, on the Third day of April in the year last aforesaid, said day being one of the days of the February Term aforesaid Court, the following among other proceedings was had in said Court and entered of Record to wit.

Joel Seymour & Walter W. Woodruff
vs
William T. Shufeldt & William S. Littell, } appt.

This day again came the plaintiffs by their attorneys aforesaid and the defendant William Shufeldt also comes and after argument heard on the motion of defendant submitted heretofore, for a new trial herein, the Court being fully advised now overrules said motion.

Therefore it is considered that said plaintiffs do have and recover of said defendants William T. Shufeldt and William S. Littell, their damages of Two Hundred two Dollars and twenty eight cents, in form as aforesaid appeared by the Court and also their costs and charges in this behalf expended and have execution therefor.

And afterwards, to wit, on the Twelfth day of April in the year last aforesaid the said defendants by their said attorneys, filed in the office of the Clerk of said Court, their Appeal Bond and Bill of Exceptions, which, said Bond and Bill are as follows, to wit,

11.

Know all men by these presents. That we William T. Shufeldt, Asam H. Shufeldt and J. A. Baldwin of the City of Chicago, are held and firmly bound unto Joel Seymour and Walter W. Woodruff in the penal sum of Three Hundred Dollars, lawful money of the United States for the payment of which well and truly to be made we bind ourselves, our heirs and administrators, jointly severally and firmly by these presents. Witness our hands and seals this sixth day of April A.D. 1858.

The condition of the above obligation is such, whereas the said Joel Seymour and Walter W. Woodruff, did on the Twenty-sixth day of February A.D. 1858. before the Cook County Court of Common Pleas, recover a judgment against the above bounden William T. Shufeldt, and one William S. Littel, for the sum of One Hundred and two Dollars and twenty Eight cents, and costs of suit, from which said judgment the said William T. Shufeldt hath taken an appeal to the Supreme Court of the State of Illinois. Now if the said William T. Shufeldt, shall duly prosecute his appeal, and pay the said judgment, costs, interest and damages in case the said judgment shall be affirmed. then the above obligation to be void, otherwise to remain in full force and effect.

Approved by me
John W. Halsey

Judge C.

W. T. Shufeldt Seal
A. H. Buck Seal
J. A. Baldwin Seal

State of Illinois }
Cook County } W. Asam H. Buck, & J. A. Baldwin,

the sureties in the within Bond named, being severally duly sworn, doth depose and say each for himself, that he is a householder in the State of Illinois, and worth the sum of Six Hundred Dollars, over and above all his debts and liabilities, and over and above all property exempt by law from sale under Execution.

Sworn before me this

9th day of April 1858

A. H. Buck

Calvin B. Hall

J. A. Baldwin

(Seal)

Notary Public

Endorsed, Approved by Court Apr. 12. 1858

Belus Clark

State of Illinois }
Cook County } ss.

Joel Seymour and
Walter W. Woodruff

vs

William T. Shufeldt
& William J. Little

In Assumpsit.

In the Cook County Court of Common Pleas
At the February Term A.D. 1858

Be it Remembered that on the trial of this cause had before the Court by the consent of Counsel, the plaintiffs to maintain the issue on their part called as a witness,

who being duly sworn testified as follows.

I know the defendant William T. Shufeldt, have seen him write, and know his handwriting.

13.

The witness on being shown the note in suit testified, the signature to this note is in the handwriting of the defendant. William T. Shufeldt, and was by defendant Shufeldt subscribed in presence of witnesses.

The counsel for the plaintiffs then read the note in evidence, which is in the words and figures following, to wit,

\$100 ²⁸/₁₀₀

Chicago Oct. 12th 1857

Ten days after date we promise to pay to the order of Messrs. Seymour & Woodruff One Hundred ²⁸/₁₀₀ Dollars, Value received, at Office Merchants Savings L. & T. Co.

W. T. Shufeldt & Co.

The plaintiffs then rested their case

The defendant Shufeldt thereupon submitted to the Court for its decision, the question whether the evidence of the plaintiffs was sufficient, under the pleadings herein to entitle them to a judgment against him the defendant Shufeldt which question the Court decided in favor of the plaintiffs. to which decision of the Court, the defendant Shufeldt then and there excepted.

The defendant Shufeldt then called as a witness.

George A. Shufeldt Jr. who on being sworn was asked the following question.

Who compared the forge of W. T. Shufeldt & Co at the time of the making of ^{the} note in suit.

To which the plaintiff

iffs counsel objected on the ground that the partnership of the defendants was not at issue.

The Court sustained the objection and the defendant Shufeldt thereupon duly excepted.

The defendant Shufeldt thereupon in his own behalf offered to prove by said witnesses, who composed the firm of W. T. Shufeldt & Co. at the time of the making of the note in suit, and that the defendant William J. Littell never was a member of said firm of W. T. Shufeldt & Co.

But the Court refused to allow him to do so, whereupon the said defendant duly excepted to the said opinion of the Court refusing to allow him to prove said facts.

This was all the evidence in the cause.

The Court then rendered judgment in favor of the plaintiffs and against the defendants for the sum of One Hundred and two ²⁸/₁₀₀ Dollars damages.

The defendant Shufeldt then moved for a new trial on the ground that the Court erred in deciding the testimony of the plaintiffs ^{to be sufficient} to entitle them to a judgment against the defendants, and also on the ground that the Court erred in refusing to allow the defendant Shufeldt to prove the facts which he offered to prove, which motion the Court denied.

And because the said Exceptions do not appear upon the record the defendant Shufeldt prayed the Court to sign and seal this bill of Exceptions, which is done.

John M. Wilson (Seal)

15.

The following is a copy of the Stipulation filed with said Bill of Exceptions, To-wit.

The plaintiffs accept and approve of the Bond herewith filed, and it is hereby stipulated by the parties hereto that the transcript of the record in said cause may be taken by either party and filed in the Supreme Court on or before the third day of the next term thereof, and the said cause be heard in its order at the said term, commencing in April A.D. 1858, in the same manner as if the same had been appealed more than thirty days prior to the said term.

Helmer & Clark

Plffs attys

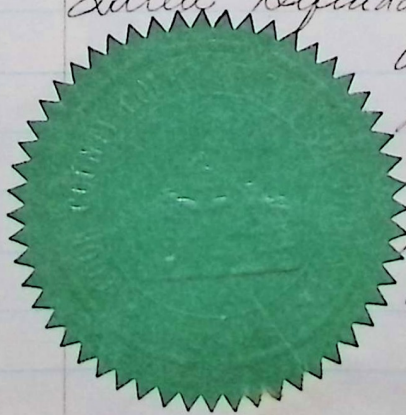
Hopkins & Guthrie

attys for Deft
Wm. T. Shufeldt

State of Illinois }
County of Cook } J. Walter Kimball, Clerk of
the Cook County Court of Common Pleas, within
and for said County Do hereby Certify that the
above and foregoing is a full and true transcript
of the papers on file in my office and the proceedings
entered of Record in said Court, in the case in
which, Joel Seymour & Walter W. Woodsruff are
plaintiffs and William T. Shufeldt and William S.
Littell Defendants

In Testimony Whereof I hereunto
subscribe my name and affix the
Seal of said Court at Chicago in
said County this 13th day of April
A.D. 1858

Walter Kimball Clerk



Book Co. Lk. of Com. Pleas

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